

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1063

2005 HOUSE POLITICAL SUBDIVISIONS

HB 1063

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1063

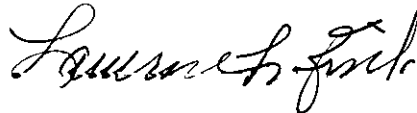
House Political Subdivisions Committee

Conference Committee

Hearing Date January 7, 2005

Tape Number	Side A	Side B	Meter #
1	x		1.9 to end
		x	3.4 to 14.5

Committee Clerk Signature



Minutes: **Rep. Devlin, Chairman** opened the hearing on HB 1063, A Bill for an Act to create and enact two new sections to chapter 54-44.3 of the North Dakota Century Code, relating to authorizing political subdivisions to request an exemption from coverage under the state merit system; and to amend and reenact section 54-44.3-12.1 of the North Dakota Century Code, relating to revisions to the compensation plan established by North Dakota human resource management services.

**Rep. Alon Wieland, ( 2.5 )** spoke as prime sponsor for this bill. A copy of his written prepared testimony is attached.

**Scott Wagner, ( 4.5 )** testified before the committee as a Cass County Commissioner in support of HB 1063. A copy of his prepared statement is attached.

**Rep. Ekstrom ( 6.2 )** One of my concerns with this bill is its effect on the equity in the system statewide. The problem I perceive is --- and I am not objecting to the bill --- is that this would create a Golden Apple siting in Cass County where it would draw people to Cass County from

the rest of the state. Perhaps this would effect teachers and everyone else. Was this a part of the conversation as this went forward?

**Scott Wagner :** We did have discussion and Terry Traynor from the ND Association of Counties is here to discuss the issues of a statewide basis. At our annual convention in November his was discussed. The group did support this legislation. There is already a differential between smaller and more rural counties and the larger more urbanized counties. If there is an issue of salaries its already there. There was a resolution passed supporting this.

**REP. KRETSCHMAR ( 8.3 )** Could you give an example in Cass County as to how the current law restricts you?

**Scott Wagner:** Our Director of social Services is here today. She can speak more directly to that than I can. But I will say that in our overall County --- from the county stand point , they are county employees no different than our employees in the highway department, our sheriffs department, our states attorneys, treasurer's office, and one thing we have noticed is that we try to have an equitable system. That is how we try to operate and that's kind of the dynamics of the system. We do state regional study for salaries and for like size political subdivisions and some businesses that have like positions such as secretarial. We have found that right now we find that we have about a \$350,000 deficit for these employed in the county.

**Rep. Herbal, Vice Chairman ( 9.7 ):** I have been looking at this and I don't know how the Administrative Rules effect the merit pay system. Would you be able to explain that for me?

**Scott Wagner:** I will admit that I am not the expert in that area. I think there are people here who will go into that.

**Rep. Herbal, Vice Chairman:** It appears to me from conversations and from what Rep.

Eckstrom about the inequities that may occur between different counties. Will this put an undue pressure on the more rural counties? Will effect and increase in proper tax to try to keep employees?

**Scott Wagner:** There is a little difference statewide; however, in the discussions I have had with different county official is a little different dynamics than most counties and especially counties --- especially social service employees are actually on the higher end of the scale in their counties.

We have the reverse -- our social service employees are on the lower end of the scale.

**Rep. Herbal, Vice Chairman ( 11.9 )** Wouldn't this have a negative effect on the smaller counties ?

**Scott Wagner:** If the issue is already a difference in pay -- so one of the things indicated to me with county commissioners was -- and again this was from a commissioner already supportive of this bill -- from a smaller county, if people are leaving for just (only ) pay I don't see how this will do that because there is already an issue.

**Rep. Herbal, Vice Chairman:** If you are going to do this -- obviously you are, you are going to increase the salaries of the employees -- how will you go about doing that? Is that done by the vote of the people or is that done by the county commissioners?

**Scott Wagner:** Cass County --- every county is uniquely different-- but Cass County is one of four home rule counties in North Dakota. We have a 75 mils cap which the people voted back 1994. Ten years after that we are at 64 mils -- 10 mils under our cap. To put that in perspective

About the cost and going back to the taxpayers -- as a local representative of them we are very sensitive to that issue because we are directly responsible to the citizens -- we are responsible as commissioners in Cass County -- one of the arguments against the home rule over a decade ago was you create an artificial levy -- government will quickly go to that. Yet we are under that and we have one of the lowest consolidated mil levies in the state. To make this happen if we were to opt out it would become part of our budgeting process.

**Rep. Koppelman:** ( 14.1 ) In your response to Rep. Herbel's question you mentioned there is already a difference between Cass County and what the state pays. Were you referring to Human Services or Social Service employees specifically or county employees in general?

**Scott Wagner :** Others can probably answer that better but I believe that is something that is quite universal among the counties irrespective of the departments within county government.

**Rep. Koppelman :** 14.7 ) The reason I asked that is to clarify in my mind is that the problem in Cass County is that the pay you pay Human Service/social Service employees across the state is pretty much standardized within the rule required statewide whereas the County employees in other departments is controlled by the county system. And, in Cass County that presents a problem because it means Human Services employees are not compensated or given raises within other employees so there is an inequity there; and, in other counties it is the flip side where social services employees are paid more than other county employees. Am I grasping the concept?

**Scott Wagner :** Yes that in essence because of how it is structured we have employees who are frozen and can't move up the system which applies to the rest of the employees in other departments.

**Rep. Devlin, Chairman** : I can understand why you would want to do this because the property tax valuations would go through the roof because this would go right on to the property taxes.

**Scott Wagner** : We have budget already this year -- it is just a matter of establishing priorities within that department. I think you know when you get to government, especially county government, labor is the most expensive cost to government because it is service oriented. Once again in this past budget session what we did, like with every other issue we prioritize a number of things including salaries, benefits and those kind of things obviously in an attempt to retain qualified people that have experience within our organization. It is true that we have an increase in our valuations.

**Kathy Hogan, Director of Cass County ( North Dakota ) Social Services (18.0)** testified in support of this bill. A copy of her written prepared testimony is attached.

**Rep. Koppelman** : ( 24.4 ) A couple of questions - One is as I look at the charts, how is the inequities we were talking about earlier how is it that the social service employee in Cass County are on the County health Insurance Plan -- how can we say that is a detriment while you pay a portion of it while the salaries in effect are frozen versus the state plan where they are required to do everything else according to the state mandate? Is that because they are county employees instead of state employees?

**Kathy Hogan** : Exactly. Essentially, most of the benefits type of things are county benefits -- and we see as county employees the county pays it and that is why it is local choice.

**Rep. Koppelman** : And my second question is -- the question is that when we look at this chart and we note the differences -- why doesn't Cass County opt to do what the state does and do that? And eliminate the inequity that way ? I do believe in local control.

**Kath Hogan :** ( 25.6 ) We have a very structured personnel system and we really struggle for things like the funeral leave discussion. And our salary administration plan is very thoughtful and has been in place since 1991. We have a different philosophy but again I think the County Commission believes the county employees are their responsibility.

**Rep. Ekstrom:** ( 26.5 ) There are two parts to this -- what is the differential between Cass County and Clay County ( Minnesota ) ?

**Kathy Hogan :** Actually, there is a differential between Cass and Clay Counties -- in our salary study about a third our salary we do is based on the local community comparing Cass County with the city of Fargo, Moorhead, and Clay County. That's the kind of people we look at. Now in the last three years I have not lost any employees to Clay County. But we have to private agencies -- social workers have gone to private agencies, we have lost secretarial and support staff are one of my biggest concerns. Some of my support staff the salary differences are \$ 4 - 5000 per year. If you are at the low end of the salary scale that is a significant difference. So those are the people we have some problems with. It is looking at what's our market and who are we compared to --- and it is really the local market which has driven much of this.

**Rep. Herbal, Vice Chairman** ( 27.9 ) You must track your turnover rate -- what is your turnover rate? What has it been the last five years?

**Kathy Hogan :** Our turn over rate is actually pretty low -- our voluntary rate is probably about 3%. But our salary freeze has been only the last two so I am concern about our future.

**Rep. Kaldor:** ( 28.3 ) When I look at the federal regulations -- how does the federal regulation apply to a county like Cass county with regard to equitable and adequate compensation? Who do they compare to ?



**Kathy Hogan** : That is an interesting question -- and that is that some of my employees which the federal law says have to be equitable and adequate. Do they compare other counties or do they compare with other employees in Cass County? I think that works up a bit of a legal dilemma because we do know the answer to that and we do know that internally we are not equitable.

So that is part of the reason for the bill because we are trying to assure internal equity.

**Rep. Kaldor**: ( 29.9 ) Do you know any other subdivision of government who tested this?

**Kath Hogan** : No, not aware of any.

**Rep. Koppelman** : It seems to me that the inequities could cause two types of problems -- first, morale and the other is what Rep. Herbel talked about is that of people leaving for positions that pay better salaries. Is that happening? Are people leaving for other county or city positions? Are people in your department looking at other county jobs within county government?

**Kathy Hogan** : My staff has started to look at other -- like the support staff and in those areas which are transferable. I have had social worker go to work in the jail in a similar classified position. So there has been some of that internal transfer.

**Rep.Devlin, Chairman**: ( 31.4 ) Cass County have the power now to make things uniform like funeral leave ?

**Kathy Hogan** : Those things are in the Administrative Rules and I can't change that. If we opted out I could set my own rules -- we could set our own plan if approved by the state.

**Rep.Devlin, Chairman** : Your attrition rate or your loss of employees is about 3% per year?

**Kathy Hogan** : Well that is what it has been in the past -- I think that because people are just hitting that salary cap we hope this proactive legislation will help so we don't have to face that.

**Rep.Devlin, Chairman** : How many employees does Cass county have in Social Services?

**Kath Hogan** : 120

**Rep.Devlin, Chairman** : How many do you have at the top of the salary scale --- the salary cap?

**Kathy Hogan** : ( 32.6 ) I will get that for you. I know what my pay is an I am at the top of my scale. I am classified the same as the County Engineer. We have an independent classification system and Rep. Herbal, Vice Chairman makes \$17,000 a year more than I do. On some of my lower level positions, secretary is making \$4000 less than a person across the hall from her. An eligibility technician and again that is not necessarily directly comparable they are about \$7000 less. Our social worker II are \$11000 less and some of the state positions as about 7.5 % below the public scale. So it is a systems problem.

**Rep.Devlin, Chairman** : ( 34.2 ) What would the tech salary go from under a change with this bill?

**Kathy Hogan** : Current that classification would go from \$35,000 to \$40,000. I am at \$71,000 and under the new system I would go to \$88,000.

**Rep.Devlin, Chairman** : I can understand why you are doing it and I can understand that if an employee can make another \$10,000 that he/she are going to do it. But I don't know how these smaller counties are going to compete ---

**Kathy Hogan** : But, that is already happening. I didn't want to say anything but in the last two years I have already recruited 7 employees from those counties.

**Terry Traynor, Assistant Director of the ND Association of Counties** : ( 35.6 ) A copy of his prepared testimony is attached. He spoke on behalf of the county association in favor of the bill

. Mr. Traynor also volunteered to answer several questions which had been asked --- Rep. Kaldor had asked whether this system had been tested -- no not in North Dakota but certainly has in Minnesota many, many years particularly in the metro counties. The issue of possibly creating a bigger magnet in Cass County, we talked to various county commissioners as well as those from Cass County at the county association convention -- as stated it is already happening not only in social services but in Law Enforcement. It will continue. The other issue I want to mention is section one --- that language was put in there at the counties' request a number of years ago simply -- if you look at county commissioners and at what frustrates them --- is not so much what Cass is doing but more so in the rural counties we have more employees at the bottom of the pay scale so that any change has like the state giving a 2 or 4% raise, the effect is that of racheting up all the salaries above them and the whole classification. When you raise the upper end of the scale in Cass County doesn't effect the smaller counties so much but when you raise the lower end it effects all of the employees in that county.

**Rep. Koppelman :** ( 41.6 ) We did talk about the salary freeze but as a matter of fact the legislature did allow the agencies to give salary increases if they could effect some savings --- that was so the agencies would look at the big picture and effect some relief in the growth of government through attrition. The only branch of government to do that was the Judicial branch. I am curious is there any kind of mechanism for the counties to do that?

**Terry Traynor :** I don't know if those raises had gone into effect how that would effect the merit system -- if the they would have gone up it would probably pushed everything up including the county social services.

**Rep. Koppelman :** With regard to the issue we have been talking about --- about people leaving the smaller counties and coming to the bigger cities -- it seems to me there is kind of a flip side to this --- my sense there is a lot of the sense that "I don't want all the traffic and do want all the big city stuff ' -- I want my kids in a smaller school and don't want to pay two or three times the price for a house -- maybe I want to live in a smaller area -- do you see any of that?

**Terry Traynor :** I think that the merit system pay does keep the salaries up even in the smaller communities and therefore has a tendency to drag up the lower pay scales there. It does keep the employment in those rural communities a little more attractive.

**Rep. Kretschmar:** We have been talking about counties does this effect cities too?

**Terry Traynor:** ( 45.2 ) Because city employees aren't involved in the administration of social services it is my understanding they don't have any class of employees that fall under the merit system requirements.

**Rep. Kretschmar :** Reading under section 2 it read that the political subdivision may request the division and the director of the department of human services -- why is this?

**Terry Traynor :** I believe its the Human Resources Division.

**Rep. Kretschmar :** OK

**Rep. Herbal, Vice Chairman :** ( 46.2 ) Do you see a lot of the counties -- because you have been in contact with them -- do you see a lot of counties would opt to do this type of thing and follow Cass's lead?

**Terry Traynor :** That is a good way of putting it -- I think there are a number of counties who will watch Cass and see how well they do it -- I don't think they will jump into it quickly as there are only few who are faced with this and I don't think this is going to be a cheap alternative. To

meet the merit system requirements it is going to take an investment by the county to make their market studies and have their review policies and everything in place to meet the federal standards. So, I think they will watch Cass to see how much it cost, how well it does.

**Rep. Herbal, Vice Chairman :** You mentioned that the Association of Counties was supporting this -- was there an actual vote of the association members?

**Terry Traynor :** ( 48.2 ) We have multiple associations -- our largest member group is the county commissioners which also acts on legislation -- they voted to overwhelming -- it was a voice vote -- I honestly don't recall if there was any dissension at all. It was overwhelming all. The umbrella organization of counties which includes represents the commissioners as well as the social service directors, auditors, sheriffs, treasurers -- it was the same situation, they had voice vote -- there was quite a bit of discussion on these same issues -- it was overwhelmingly in support.

**Rep.Devlin, Chairman :** If you take 120 out of the merit system and the rest of the county is there going to be any support if the rural counties want to come in and raise the salaries in the merit system --- if Cass, Burleigh are out of it -- ?

**Terry Traynor :** ( 49.9 ) I was thinking about that too when I was working that through my mind -- it isn't just counties --- it hasn't been just salaries in the past which has determined what employees want -- it really is what their salary studies drive -- when they go an test the market as required by the merit system and see what salaries are, they have to stay within a range of whatever they find out. That is what sets it. Counties haven't been in lobbying for salary increases.

**Rep. Devlin, Chairman :** Well as you know coming from a smaller county if Steele County had to come up with \$350,000 it would take 40 mils.

**Chris Runge :** I am the Executive Director of the ND Employees Association. I am testifying in support of this bill. We served on the task force which look at this bill. At first I was concerned as to what it would mean the system and what it would do across the state as well as the state system. But after working through it we had similar questions to what you have all asked here today. One, I don't think all that many counties are going to go into this because of what it is going to take to set up what is required; and, I think it will involve only 3 or 4 counties in the state. The other thing we were concerned about the state merit system would the floor and that no county would be the able to be the top above --- well anyway we are satisfied the legislation the oversight the Department of Human Services and the ND Resource Management Service will protect that system. And protect the integrity of the system still allowing the counties to have some flexibility.

**Rep. Herbal, Vice Chairman:** Do you think there will be a negative impact in the counties surrounding Cass county?

**Chris Runge :** I really concur with what Kathy and Ken have said -- some of that is already occurring where people look to Cass county to see what openings are there. We see that in state services too.

**End of Side A ( 54.6 )**

**Side B Tape 1 record continues ....**

**Rep. Ekstrom ( 3.4 )** The concern I have is that the smaller counties will have limits of what they can afford to give in raises, in what they can do, ... Will this create a problem, will it continue to grow ..

**Chris Runge ..** I don't think this bill is going to exacerbate the problem -- it is not going to make it better for the other counties and I don't think its going to make it any worse -- they are faced with those same kind of issues now. Since this is permissive legislation that this going to enhance the problem instead I think it is going to solve a significant morale problem in Cass County.

**Laurie Sterioti Hammeren ( 4,2 )** representing the Human Resource Management Services spoke as a neutral party but did serve on the task force which spawned this legislation.

**Rep.Devlin, Chairman :** Will this add any additional costs to the Human Resources Services for audits ---

**Laurie Sterioti Hammeren:** We currently through our department do merit system audits and as part of this legislation we will continue to audit those agencies who opt out -- primarily because we are concerned that they don't deviate from the federal requirements which would impact the federal dollars coming into the state and thereby penalize the federal funding. No, I don't anticipate any increase in staff being required.

**Rep. Herbal, Vice Chairman :** Is there any correlation between this and the prison situation?

**Laurie Sterioti Hammeren :** They already have those issues with 14 - 30% below market salaries. It makes it really difficult. We are very concerned since the state employees have not had a raise since 2002 and the average age is something like 46 point something -- we are concerned with what we see on the horizon. Our state salaries are currently about 66 or 68 %.

I did actually review their salary surveys and we have to provide equal pay for like work and I don't have the authority to change that. We looked at other options before coming to the opt out option.

**Rep. Koppelman :** ( 11.9 ) As you say state law and administrative rule do not allow you to adjust the salary scales or to administratively fix the problem, how much of that is fixed by this bill?

**Laurie Sterioti Hameren :** The law provides for the Merit System personnel administration and identify fees under. The rules provide procedural things and I think I could change the rules to allow flexibility as to who can or how to step up the salaries but then you are back to the equal pay for equal work issues. Like I said before --- how wide can the range get before you really do have an equity issue ?

**Rep. Kaldor :** ( 12.7 ) Regarding the federal standards --- as I read this, it doesn't necessarily say "must" provide equitable and adequate but it is a principle -- does the federal government audit --- this ?

**Laurie Sterioti Hammeren :** We have not been audited.

There being no further testimony either for or against HB 1063 , Chairman Devlin closed the hearing on HB 1063. In the work session, Chairman Devlin carried any action over to the next week as Rep. Kaldor and several others expressed a desire to check with their counties and to study the issues a bit more.

**End** ( 14.5 ) for this record.



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1063 b

House Political Subdivisions Committee

Conference Committee

Hearing Date January 13, 2005

Tape Number	Side A	Side B	Meter #
3	x		8.7 to 21.5

Committee Clerk Signature



Minutes: In work session **Rep. Devlin, Chairman** opened the discussion on HB 1063 for action.

**Rep. Koppelman** moved a 'Do Pass' motion. **Rep. Ekstrom** seconded the motion.

In discussion, **Rep. Kaldor** stated that Rep. Herbal, Vice Chairman had done some investigation back home. It is an issue of concern. Their social services director indicated there was always pressure and an attraction for those people who are qualified to go where they are better paid. But in the last couple of openings they have had, they have had more than enough applicants -- in fact -- they had twenty applicants -- some from Minnesota -- so there is probably not the problem of competition. It would be more equitable than dangerous to the smaller counties.

**Rep. Ekstrom** noted that in Fargo, in a two year period 3 workers from smaller counties had returned to the smaller counties -- probably for a variety of reasons.

Discussion continued but centered around the fact that the bill was intended to be proactive in Cass County; that the problems currently were likely more morale than availability of applicants;

that, it was possible to opt out and to opt back in; and, that there was likely not that much of a threat to the smaller counties.

**Rep. Zaiser** concurred with Rep. Ekstrom that the potential positive impact all across the state was quite likely.

**Rep. Dietrich** like the prospect that the effect might be to drag the salaries of all the low North Dakota up. Rep. Herbal, Vice Chairman noted that Terry Traynor had testified that Cass county and Counties that had higher salaries were already magnets and this will help Cass County.

On a roll call vote HB 1063 carried **8 ayes 3 nays and 1 absent. Rep. Ekstrom** was designated to carry HB 1063 on the floor.

End of record ( 21.5 )

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/17/2005

Bill/Resolution No.: HB 1063

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

No fiscal impact. DHS and OMB would be required to monitor the opt out agencies through Merit reviews and audits. Thus we would change one function for another.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Laurie Sterioti Hammeren  
 Phone Number: 328-4735

Agency: OMB  
 Date Prepared: 01/17/2005

Date: *January 13, 2005*  
Roll Call Vote: *1*

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. *HB 1063B***

House **POLITICAL SUBDIVISIONS**

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass*

Motion Made By *Mr. Kop*

Seconded By *Ekstrom seconded*

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman		✓	Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman		✓	Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	A				
Rep. Pietsch	✓				
Rep. Wrangham		✓			

Total (Yes) *8* No *3*

Absent *1*

Floor Assignment *Rep Ekstrom*

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 13, 2005 4:34 p.m.

**Module No: HR-08-0458**  
**Carrier: Ekstrom**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1063: Political Subdivisions Committee (Rep. Devlin, Chairman)** recommends  
(8 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1063 was placed on the  
Eleventh order on the calendar.

2005 TESTIMONY

HB 1063



Representative Alon Wieland  
District 13  
P.O. Box 412  
West Fargo, ND 58078-0412  
awieland@state.nd.us

# NORTH DAKOTA HOUSE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



COMMITTEES:  
~~Human Services~~  
RURAL CONDITIONS  
**APPROPRIATIONS**

## DRAFT 1 Testimony HB 1063 January 7, 2005

**Chairman Devlin, members of the committee, my name is Alon Wieland, Representative from District 13. I am pleased to be the prime sponsor of this legislation and hope that you will support it.**

**This bill is the result of many years of discussion and research. Over the last eighteen months a task force of key agencies with a direct interest in the federal Merit System requirements has met to research alternative ways of assuring compliance while allowing local flexibility. This bill is the result of the work of that task force.**

**There are two components of this bill – both permissive based on action by the local county commissions. The first section allows a county to adopt the state salary schedule effective July 1 of each year, rather than the current statute that makes that effective date January 1 if formally requested by the county commission. The second section would allow a county or a group of counties to develop and implement a local federally qualified Merit System with the approval of both the ND Department of Human Service and Human Resource Management Services. Again, this would be permissive legislation.**

**I urge you to seriously consider this legislation. Several representatives from the counties and from state agencies will provide additional background information.**

**Thank you for your time and interest. I am willing to answer any questions.**

Testimony HB 1063  
January 7, 2005

Chairman Devlin, members of the committee, my name is Scott Wagner, I am a Cass County Commissioner and I am here today representing the Cass County Commission. We strongly urge you to support this legislation.

Cass County has been concerned for several years about growing internal inequities between the social service employees and other county employees. There are a number of areas of inequities including both policy and benefit differences but the salaries/benefits inequities have grown significantly over the past three years. Currently, county social service employees are required by Century Code to follow the Administrative Rules of the state Merit System. In Cass County, social service employees are covered in some areas that are required by those Administrative Rules as well as in areas that are not addressed in Administrative Rules wherein the county policies then are applied. This means that the county personnel policies reference social service exceptions and both management and employees need to consider the difference. This legislation is aimed at reducing or eliminating internal inequities for county employees.

The Cass County Commission recognizes that in order to assure that the citizens of the county access certain federal funds, we must comply with the federal merit system requirements. We also recognize that in order to assure compliance we will need to develop a plan, policies and



procedures that will need to be approved by various state agencies. We know that this will take additional local resources but believe that in order to assure internal equity that this is a good investment.

I would like to thank the many individuals and organizations that have been willing to meet with us over the past year to develop this proposal. Human Resource Management Services, the ND Department of Human Services, the ND Association of Counties, the ND Public Employees Association and various representatives of individual counties.

Thank you for your consideration of this bill. I am willing to answer any questions.

**Testimony HB 1063**

**January 7, 2005**

**Chairman Devlin, members of the committee, my name is Kathy Hogan. I am the Director of Cass County Social Services and I am speaking today on behalf of Cass County.**

**I will provide information on three major areas. First I will review a comparison of some of the policy/benefit differences between the state merit system and Cass County – so that you may better understand the dilemma that this bill attempts to address. Secondly, I will review the federal merit system requirements and discuss why this particularly approach was developed. Finally, I will review section 1 of the bill, regarding compensation.**

**As Commissioner Wagner described in his testimony, county social service employees must follow some Human Resource Management Services Administrative Rules. In Cass County, the local personnel policy manual and practices have integrated those rules. On attachment A you will see a comparison. Those policies that are in red indicate what applies to Cass County social service employees. This graph describes the current challenge we are facing. Depending on the benefit/policy, county social service employees may be covered either by Administrative Rules or by county policy. This overlap creates both confusion and inequities. Cass County would like to eliminate as much**

inconsistency as possible while still complying with federal merit system requirements.

In the fall of 2003, an informal task force of interested parties began meeting to look at the Cass County issues and to study possible solutions. The group began by looking at the actual federal merit system requirements. Attachment B describes those requirements. Essentially there are six requirements: Recruitment/hiring; equitable and adequate compensation; provide training; retaining employees based on performance; assuring fair treatment – compliance with all federal employment laws; protection from coercion from partisan political purposes. We also looked at how a number of other states, particularly those that are state supervised/county administered social service systems assure merit system compliance. In all situations, there is a state law that assures that the federal standards are met. In some larger states, the counties maintain fully independent merit systems. In some states like North Carolina, the state fully manages the merit system and in several states including California and Minnesota, there are state systems that counties can voluntarily opt out of if a county can assure compliance with federal standards. This is the model that we have chosen to propose for your consideration. This legislation would be permissive for counties.

If this legislation were to pass, Human Resource Management Services would establish detailed administrative rules regarding procedures for establishing a local merit system. A county or group of counties would

develop a plan and policies to comply with those rules and submit it to the state for review and approval.

Finally, let me briefly comment on Section 1 of the bill. This again is permissive legislation. Currently, state law establishes the effective date for the state salary scale for social service employees to be effective January 1 of each year. This means that when the salary scale is adjusted for state employees on July 1 each year, county employees do not get that benefit until the following January. Section 1 would allow a local county to adopt the new state scale on July 1 of the year similar to state employees if requested formally by a county commission.

Thank you for your time and interest. I am willing to answer any questions.

## Salary/Benefit Comparison

Benefit	ND System	Cass County
Salary	State Scale	County Scale
Sick Leave	8 hrs/month Unlimited Accrual	8 hrs/month 960 hours accrual limit Payout of 50% over 960 annually
Annual leave	Accrual rates 0-3 yrs 8 hrs/month 4-7 yrs 10 hrs/month 8-12 yrs 12 hrs/month 13-18 yrs 14 hrs/month Over 18 yrs 16 hrs/month	Accrual rates 0-5 yrs 8 hrs/month 6-14 yrs 12 hrs/month over 14 16 hrs/month
	<b>Annual leave carryover 240 hrs</b>	<b>Annual leave carry over 240 hrs</b>
Funeral leave	3 days for family member	4 days for immediate family 2 days for extended family
Health Insurance	Full family coverage (No employee Contribution)	Coverage available (varies by county) Full family – employee pays \$168/month Single w depend –employee pays \$71/month Individual – employee pays \$21/month
Retirement	PERS – state pays	PERS county pays (varies by county)

Policy in red apply to Cass County social service employees

Code of Federal Regulations]  
[Title 5, Volume 2]  
[Revised as of January 1, 2002] (Printed from web page 6/10/03)  
From the U.S. Government Printing Office via GPO Access

## **Subpart F--Standards for a Merit System of Personnel Administration**

Authority: 42 U.S.C. 4728, 4763; E.O. 11589, 3 CFR part 557 (1971- 1975 Compilation).

Source: 48 FR 9210, Mar. 4, 1983, unless otherwise noted.

### **Sec. 900.601 Purpose.**

(a) The purpose of these regulations is to implement provisions of title II of the Intergovernmental Personnel Act of 1970, as amended, relating to Federally required merit personnel systems in State and local agencies, in a manner that recognizes fully the rights, powers, and responsibilities of State and local governments and encourages innovation and allows for diversity among State and local governments in the design, execution, and management of their systems of personnel administration, as provided by that Act.

(b) Certain Federal grant programs require, as a condition of eligibility, that State and local agencies that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific Federal grant statutes and in other cases are required by regulations of the Federal grantor agencies. Title II of the Act gives the U.S. Office of Personnel Management authority to prescribe standards for these Federally required merit personnel systems.

### **Sec. 900.602 Applicability.**

(a) Sections 900.603-604 apply to those State and local governments that are required to operate merit personnel systems as a condition of eligibility for Federal assistance or participation in an intergovernmental program. Merit personnel systems are required for State and local personnel engaged in the administration of assistance and other intergovernmental programs, irrespective of the source of funds for their salaries, where Federal laws or regulations require the establishment and maintenance of such systems. A reasonable number of positions, however, may be exempted from merit personnel system coverage.

(b) Section 900.605 applies to Federal agencies that operate Federal assistance or intergovernmental programs.

### **Sec. 900.603 Standards for a merit system of personnel administration.**

The quality of public service can be improved by the development of systems of personnel administration consistent with such merit principles as--

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) Providing equitable and adequate compensation.

(c) Training employees, as needed, to assure high quality performance.

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.

(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

**Sec. 900.604 Compliance.**

**(a) Certification by Chief Executives.**

- (1) Certification of agreement by a chief executive of a State or local jurisdiction to maintain a system of personnel administration in conformance with these Standards satisfies any applicable Federal merit personnel requirements of the Federal assistance or other programs to which personnel standards on a merit basis are applicable.
- (2) Chief executives will maintain these certifications and make them available to the Office of Personnel Management.
- (3) In the absence of certification by the chief executive, compliance with the Standards may be certified by the heads of those State and local agencies that are required to have merit personnel systems as a condition of Federal assistance or other intergovernmental programs.

**(b) Resolution of Compliance Issues.**

- (1) Chief executives of State and local jurisdictions operating covered programs are responsible for supervising compliance by personnel systems in their jurisdictions with the Standards. They shall resolve all questions regarding compliance by personnel systems in their jurisdictions with the Standards. Findings and supporting documentation with regard to specific compliance issues shall be maintained by the chief executive, or a personal designee, and shall be forwarded, on request, to the Office of Personnel Management.
- (2) The merit principles apply to systems of personnel administration. The Intergovernmental Personnel Act does not authorize OPM to exercise any authority, direction or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employee.
- (3) When a chief executive requests the assistance of the Office of Personnel Management, the Office will provide consultation and technical advice to aid the State or local government in complying with the Standards.
- (4) The Office of Personnel Management will advise Federal agencies on application of the Standards in resolving compliance issues and will recommend actions to carry out the purposes of the Intergovernmental Personnel Act. Questions regarding interpretation of the Standards will be referred to the Office of Personnel Management.

[48 FR 9210, Mar. 4, 1983; 48 FR 10801, Mar. 15, 1983, as amended at 62 FR 33971, June 24, 1997; 62 FR 53223, Oct. 14, 1997]

**Sec. 900.605 Establishing a merit requirement.**

Federal agencies may adopt regulations that require the establishment of a merit personnel system as a condition for receiving Federal assistance or otherwise participating in an intergovernmental program only with the prior approval of the Office of Personnel Management. All existing regulations will be submitted to the Office of Personnel Management for review.

**Appendix A to Subpart F--Standards for a Merit System of Personnel Administration**

**Part I:** The following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis.

## Program, Legislation, and Statutory Reference

Food Stamp, Food Stamp Act of 1977, as amended; 7 U.S.C. 2020(e)(6)(B).

Employment Security (Unemployment Insurance and Employment Services), Social Security Act (Title III), as amended by the Social Security Act Amendments of 1939, Section 301, on August 10, 1939, and the Wagner-Peyser Act, as amended by Pub. L. 81-775, section 2, on September 8, 1950; 42 U.S.C. 503(a)(1) and 29 U.S.C. 49d(b).

Grants to States for Old-Age Assistance for the Aged (Title I of the Social Security Act); 42 U.S.C. 302(a)(5)(A). **(\*1)**

Aid to Families with Dependent Children, (Title IV-A of the Social Security Act); 42 U.S.C. 602(a)(5). **(\*2)**

Grants to States for Aid to the Blind, (Title X of the Social Security Act); 42 U.S.C. 1202(a)(5)(A). **(\*1)**

Grants to States for Aid to the Permanently and Totally Disabled, (Title XIV of the Social Security Act); 42 U.S.C. 1352(a)(5)(A). **(\*1)**

Grants to States for Aid to the Aged, Blind or Disabled. (Title XVI of the Social Security Act); 42 U.S.C. 1382(a)(5)(A). **(\*1)**

Medical Assistance (Medicaid), Social Security Act (Title XIX), as amended, section 1902 (a)(4)(A); 42 U.S.C. 1396(a)(4)(A).

State and Community Programs on Aging (Older Americans), Older Americans Act of 1965 (Title III), as amended by the Comprehensive Older Americans Act Amendments of 1976, section 307 on October 18, 1978; 42 U.S.C. 3027(a)(4).

Federal Payments for Foster Care and Adoption Assistance, (Title IV-E of the Social Security Act); 42 U.S.C. 671(a)(5).

**Part II:** The following programs have a regulatory requirement for the establishment and maintenance of personnel standards on a merit basis.

## Program, Legislation, and Regulatory Reference

Occupational Safety and Health Standards, Williams-Steiger Occupational Safety and Health Act of 1970; Occupational Safety and Health State Plans for the Development and Enforcement of State Standards; Department of Labor, 29 CFR 1902.3(h).

Occupational Safety and Health Statistics, Williams-Steiger Occupational Safety and Health Act of 1970; BLS Grant Application Kit, May 1, 1973, Supplemental Assurance No. 15A.

Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5196b), as amended; 44 CFR 302.4.

[62 FR 33971, June 24, 1997]

**(\*1)** Public Law 92-603 repealed Titles I, X, XIV and XVI of the Social Security Act effective January 1, 1974, except that "such repeal does not apply to Puerto Rico, Guam, and the Virgin Islands."

**(\*2)** Public Law 104-193 repealed the Aid to Families with Dependent Children program effective July 1, 1997.



**Testimony To The  
HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
Prepared January 7, 2004 by the  
North Dakota Association of Counties  
Terry Traynor, Assistant Director**

**CONCERNING HOUSE BILL NO. 1063**

Chairman Devlin and members of the House Political Subdivisions Committee, I am here on behalf of the North Dakota Association of Counties to express our support for House Bill 1063.

Other testifiers here today have provided the logic and mechanics behind this proposed change, and I won't repeat that information. I simply want to assure the committee that commissioners and other county officials from across the State have voted to support this legislation.

While the situation that has prompted this bill is somewhat limited right now to Cass and possibly several of the other large counties, we see this as an optional authority that could possibly become important to groups of counties in the future. As counties move toward more cooperative efforts, particularly in the area of human services, the need for flexible tools to manage those cooperative efforts are critical.

Mr. Chairman and committee members, I also urge a Do Pass recommendation on House Bill 1063.